

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

KENNETH FLEMING, JOHN DOE, R.K., and
T.D.,

Plaintiffs,

v.

THE CORPORATION OF THE PRESIDENT
OF THE CHURCH OF JESUS CHRIST OF
LATTER-DAY SAINTS, a Utah corporation
sole, a/d/a "MORMON CHURCH"; LDS
SOCIAL SERVICES a/d/a LDS FAMILY
SERVICES, a Utah corporation,

Defendants.

NO. 04-2338 RSM

**SECOND DECLARATION OF
MICHAEL ROSENBERGER IN
SUPPORT OF MOTIONS IN
LIMINE**

Michael Rosenberger, being duly sworn on oath, deposes and says:

1. I am one of the attorneys representing the Defendants in this matter. I make this
declaration based upon personal knowledge.

2. Attached as Exhibit 1 is a true and accurate copy of Plaintiff's Interrogatory
Answers.

3. Attached as Exhibit 2 is a true and accurate copy of Plaintiff's Pretrial Statement
captioned as "Pretrial Order," which was served on August 21, 2006.

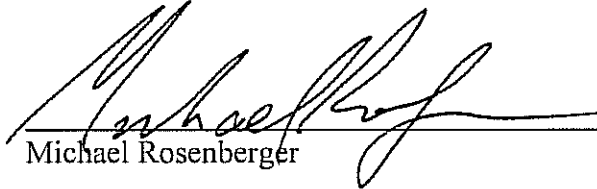
SECOND DECLARATION OF MICHAEL
ROSENBERGER IN SUPPORT OF MOTIONS IN
LIMINE - I
No. 04-2338 RSM

GORDON MURRAY TILDEN LLP
1001 Fourth Avenue, Suite 4000
Seattle, WA 98154
Phone (206) 467-6477
Fax (206) 467-6292

1 4. Attached to this Declaration are true and accurate copies of excerpts from the
2
3 Deposition of Plaintiff R.K., Dorothy L. Kelly, and Jack A. Onefrey (aka Loholt).
4

5 I declare under the laws of the State of Washington and of the United States that the
6
7 foregoing is true and correct.
8

9 DATED this 15th day of September, 2006.
10

11
12
13
14 
15 Michael Rosenberger
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

THE HONORABLE RICARDO MARTINEZ

RECEIVED

MAY 09 2005

STAFFORD FREY COOPER

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KENNETH FLEMING and JOHN DOE,

Plaintiffs,

v.

THE CORPORATION OF THE
PRESIDENT OF THE CHURCH OF JESUS
CHRIST OF LATTER-DAY SAINTS,
a Utah corporation sole, a/k/a "MORMON
CHURCH"; LDS SOCIAL SERVICES
a/k/a LDA FAMILY SERVICES,
a Utah corporation,

Defendants.

NO. C04-2338 RSM

DEFENDANT COP'S FIRST
INTERROGATORIES AND
REQUESTS FOR PRODUCTION
TO PLAINTIFF R.K.

AND ANSWERS, RESPONSES AND
OBJECTIONS THERETO

INTERROGATORIES AND REQUESTS FOR PRODUCTION

INTERROGATORY NO. 1: Identify your current address and Social Security
Number.

ANSWER:

Robert P. Kelly
15016 S.E. 260th Street
Kent, WA 98042

Social Security No.: 532-76-7835

DEF'S 1ST DISCOVERY TO PTF R.K. - 1 of 14
(C04-2338RSM)
[139272 v12.doc]

LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
800 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4185
(206) 478-7500 • FACSIMILE (206) 476-7575

Fred Hutchinson Cancer Research Center: Administrative Intern; Outpatient Department, September 1989 to January 1991

Analytical Technologies – Chemist; June 1987 to September 1989

REQUEST FOR PRODUCTION NO. 1: Please produce, for inspection and copying, all employment records in your possession for the employers identified in response to Interrogatory NO. 6.

RESPONSE:

I do not have employment records in my possession.

INTERROGATORY NO. 7: With respect to the occurrences of inappropriate sexual contact that you attribute to Jack Loholt/Onefrey, please identify the date of such alleged occurrence of sexual contact (to the best of your ability), the place in which the alleged inappropriate sexual contact occurred, and describe the acts of inappropriate sexual contact by Jack Loholt/Onefrey that allegedly took place during this occurrence.

ANSWER:

I first met Jack LoHolt in the early 1970s, after he moved into Herman Allenbach's home in Kent, Washington. The sexual abuse occurred in the early to mid 1970s when I was in grade school. I am unaware of the precise dates of abuse, but believe it occurred between the ages of 10-12 years old. The sexual abuse became more intense and was progressively worse each time Mr. Loholt sexually abused me.

First Incident of Abuse.

The first incident occurred in a field near the Allenbach home. Mr. Loholt lured Jimmy Allenbach, my brother (Tom Kelly) and I to a field near our house. Mr. Loholt masturbated in front of us. Jimmy, Tom and I ran down to my house and told my mom.

Second Incident of Abuse.

DEF'S 1ST DISCOVERY TO PTF R.K. - 5 of 14
(C04-2338RSM)
[139272 v12.doc]

LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
800 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4100
(206) 676-7500 • FACSIMILE (206) 676-7575

VERIFICATION

STATE OF _____)
) ss.
COUNTY OF _____)

Robert Kelly, being first duly sworn on oath, deposes and states:

I am the plaintiff herein, have read the foregoing Interrogatories and Requests for Production, and answers and responses thereto, and believe the same to be true and correct.

SUBSCRIBED AND SWORN to before me this _____ day of _____,
2005.

Signature
Print Name: _____
NOTARY PUBLIC in and for the State of _____
_____, residing at _____
My Commission Expires: _____

DEF'S 1ST DISCOVERY TO PTF R.K. - 13 of 14
(C04-2338RSM)
[139272 v12.doc]

LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
600 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4186
(206) 478-7500 • FACSIMILE (206) 478-7575

ATTORNEY CERTIFICATION

ANSWERS DATED: 5/5/, 2005.

The undersigned attorney has read and/or reviewed the foregoing answers to interrogatories, responses and objections to requests for production and certifies that they comply with FRCP 26, 33, and 34.

GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP

By 

Michael T. Pfau, WSBA No. 24649
mpfau@gth-law.com
Attorneys for Plaintiffs

DEF'S 1ST DISCOVERY TO PTF R.K. - 14 of 14
(C04-2338RSM)
[139272 v12.doc]

LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
600 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4186
(206) 676-7500 • FACSIMILE (206) 676-7575

THE HONORABLE RICARDO MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KENNETH FLEMING, JOHN DOE, R.K. and
T.D.,

Plaintiffs,

vs.

THE CORPORATION OF THE PRESIDENT
OF THE CHURCH OF JESUS CHRIST OF
LATTER-DAY SAINTS, a Utah corporation
sole, a/d/a "MORMON CHURCH,"; LDS
SOCIAL SERVICES a/d/a LDA FAMILY
SERVICES, a Utah corporation,

Defendants.

NO. C04-2338RSM

PRETRIAL ORDER

COME NOW the plaintiff R.K. and defendants Corporation of the President of the Church of Jesus Christ of Latter-day Saints and LDS Social Services and submit the following pre-trial order.

I. FEDERAL JURISDICTION

Jurisdiction is vested in this court by virtue of 28 U.S.C. § 1332(a)(1) because there is complete diversity of citizenship between the plaintiff and defendant and the amount in controversy exceeds the requisite amount established by 28 U.S.C. § 1332. Venue is likewise

PRE-TRIAL ORDER - 1 of 18
(C04-2338RSM)
[Pretrial order (2).doc]

LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
600 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4185
(206) 476-7500 - FACSIMILE (206) 476-7575

proper in this Court because plaintiff is a resident of King County and because the acts giving rise to this action occurred in King County.

II. CLAIMS AND DEFENSES

A. PLAINTIFF'S CLAIMS.

Defendants are each responsible for, negligence and breach of fiduciary duty and negligent infliction of emotional distress arising from their failure to prevent Jack Loholt aka Jack Onofrey's abuse of children, including plaintiff R.K. Defendants are additionally liable for negligence stemming from their hiring, supervision and retention of Jack Loholt as Scoutmaster and Melchesidek Priest, negligence based on their failure to report Loholt's sexual abuse of children pursuant to RCW 24.44; negligent infliction of emotional distress based on its continuing retention of Loholt as Scoutmaster and Melchesidek Priest knowing he had abused several children and was likely continuing to abuse others;

B. AFFIRMATIVE DEFENSES.

Deleted: civil conspiracy

Deleted: sexual abuse of R. K.

Deleted:

Deleted: and, civil conspiracy based on their mutual agreements and agreements with others to conceal from children, their parents, CPS and the general public evidence of Loholt's abuse of children

III. ADMITTED FACTS

A. ADMITTED FACTS.

1. The plaintiff, R.K., was at all material times, a minor under the age of eighteen years. His date of birth is June 26, 1962.

2. Defendants the Corporation of the President of the Church of Jesus Christ of Latter-day Saints, a Utah Corporation Sole, a/d/a "the Mormon Church" ("COP") and LDS Social Services, a/d/a "LDS Family Services," ("LDSSS"), a Utah Corporation, are Utah Corporations headquartered in Salt Lake City, UT.

PRE-TRIAL ORDER - 2 of 18
(C04-2338RSM)
[Pretrial order (2).doc]

LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
600 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4185
(206) 676-7500 - FACSIMILE (206) 676-7575

1 3. Jack Loholt is a twice-convicted serial child molester of pre-pubescent boys.
2 Loholt is a citizen and resident of Canada.

3 4. Jack Loholt was a member of the Mormon Church and a member of Mormon
4 church wards in the in the Renton and Kent Stakes from approximately 1967 until 1980 when
5 he moved to Canada.

6 5. During the period of abuse, Loholt resided in a downstairs apartment in the Dr.
7 Herman Allenbach home in Kent.

8 6. Altenbach was a High Priest, a member of the High Priests Quorum and is the
9 Eagle Scout leader in the Kent Second Ward during this time.

10 7. The Kent 2d Ward regularly conducted religious and social activities at the
11 Altenbach compound at which R.K. was present. R.K. was not a member of the Mormon
12 Church. However R.K. was proselytized by Mormon missionaries and Mormon Elders
13 including Loholt at the Altenbach compound. R.K. participated in ward scout troop meetings
14 held at the Altenbach compound.

15 8. Loholt was an ordained Melchiesidek Priest and Elder within the Mormon
16 Church Kent 2nd Ward.

17 9. Loholt served as a member of an Elders' Quorum within the church and
18 worked as an adult volunteer in the scouting program of the ward and the ward's Young
19 Men's Mutual Improvement Association working with 12 to 18 year-old boys.

20 10. In February 1971 Loholt was officially called to be assistant scoutmaster. Ken
21 Keller was the ward scoutmaster.

22 11. Jim Altenbach disclosed Loholt's abuse of him to his father, Dr. Herman
23 Altenbach in approximately 1971.

24
25
26
PRE-TRIAL ORDER - 3 of 18
(C04-2338RSM)
[Pretrial order (2).doc]

LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
600 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4185
(206) 476-7500 - FACSIMILE (206) 476-7575

1 12. Jack Loholt abused scouters S.P. on a troop campout.¹ S.P. disclosed the abuse
2 to his father, Richard Pettit, in approximately February 1972. Richard Pettit informed Kent
3 2d Ward Bishop Randall Borland regarding Loholt's sexual abuse of his son soon after the
4 disclosure.

5 13. Bishop Borland sent Jack Loholt to LDSSS for sexual deviancy counseling.
6 Borland did not reveal Loholt's abuse of Pettit to anyone.

7 14. Borland officially removed Loholt from scouting program but Loholt
8 continued to "help out" with the scout troop. When victim K.F. joined the Kent Second Ward
9 in 1972 Loholt was functioning as the scoutmaster.

10 15. Dr. Allenbach asked Loholt to move from the apartment. Loholt moved to a
11 house a short distance away from the Allenbach compound.

12 16. Loholt participated in sexual deviancy counseling with LDSSS for about one
13 year starting around February 1972.

14 17. Between 1971 and 1975, the Mormon Church and LDSSS and its agents were
15 mandatory child abuse reporters under RCW 26.44.

16 18. Child Protective Services has no record of ever receiving a report of child
17 sexual abuse involving Jack Loholt.

18 19. Phillip Coleman was ordained bishop of Kent 2d Ward on August 19, 1973. At
19 the same time, Richard Pettit was named Coleman's Second Counselor on the ward bishopric.

20 20. In October 1973, Bishop Coleman appointed Loholt "Assistant Venturer
21 Leader" working with teenage boys.

22 21. In May 1974, Coleman appointed Loholt to the position of Kent 2d Ward
23 Scoutmaster.

24
25
26 ¹ Defendant has moved to exclude evidence of other victims' abuse.

1 22. In 1975, a woman reported to Bishop Coleman that Loholt exposed himself to
2 her sons on a fishing outing. Coleman removed Loholt from his church positions and informs
3 his counselors, including Richard Pettit.

4 23. R.K. was abused on multiple occasions in Loholt's downstairs apartment and
5 in a field at the Allenbach compound.

6 24. Loholt admits to the abuse of multiple children; however, he denies abusing
7 plaintiff R.K.

8 25. Loholt abused other children in the apartment, including B.A., R.A. and J.A.
9 During the same time frame Loholt was abusing other children, including K.F., T.D., D.F.,
10 S.P., and others, at other locations.

11 26. At no time did the Mormon Church or any of its leaders report their knowledge
12 Loholt's abuse of children to CPS or law enforcement authorities.

13
14 **B. PLAINTIFF'S CONTENTIONS.**

15 1. Defendants COP and LDSSS were negligent because they had a duty to
16 prevent Loholt's abuse of children and failed to do so.

17 2. Defendants COP and LDSSS were negligent because they had a duty to protect
18 foreseeable victims of Loholt from harm.

19 3. Plaintiff was at all relevant times a "child" for purposes of RCW 4.16.340
20 defining "childhood sexual abuse" and the time during which a cause of action may be
21 brought.

22 4. Plaintiff was subjected to multiple acts of childhood sexual abuse as defined by
23 RCW 4.16.340(5) by Jack Loholt.

24 5. At the time of Loholt's abuse of Plaintiff, Loholt was a Mormon Church Elder,
25 Youth minister and scout leader in the Kent 2d Ward.

26
PRE-TRIAL ORDER - 5 of 18
(C04-2338RSM)
[Pretrial order (2).doc]

LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
600 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4165
(206) 676-7500 - FACSIMILE (206) 676-7575

1 5. Loholt was an agent of the Mormon Church and was subject to their
2 supervision and control.

3 6. Loholt resided in an apartment at the Allenbach compounded.

4 7. Dr. Herman Allenbach was a leader in the defendant's Scouting program, a
5 High Priest and member of the High Priest's Quorum and a former member of the Kent 2d
6 ward's bishopric and was otherwise the defendant COP's agent.

7 8. Bishop Randall Borland was at relevant times the ward bishop and was the
8 defendant COP's agent.

9 9. Bishop Philip Coleman was at all relevant times the ward bishop and was the
10 defendant COP's agent.

11 10. Bishop Richard Pettit was at all relevant times a counselor to the bishop or a
12 bishop of the Kent 2d ward and was the defendant COP's agent.

13 11. The Kent 2d Ward regularly conducted religious and social activities at the
14 Herman Allenbach compound which Plaintiff regularly attended. The Mormon Church and its
15 agents, including Loholt, regularly proselytized to Plaintiff urging him to relinquish Roman
16 Catholicism and become Mormon.

17 12. Loholt held ward boy scout troop meetings at the Allenbach compound which
18 Robert Kelly attended.

19 13. Loholt's positions within the Mormon Church as Mormon Priest, youth
20 minister and Scoutmaster allowed him to gain Plaintiff's trust and were a cause of his abuse at
21 the hands of Loholt.

22 14. Before, during and after Loholt's abuse of Plaintiff, church leaders including
23 Bishops Borland, Coleman and Pettit and Scout leader and High Priest Herman Allenbach
24 received complaints from victims that Loholt was sexually abusing children.
25
26

PRE-TRIAL ORDER - 6 of 18
(C04-2338RSM)
[Pretrial order (2).doc]

LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
600 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4185
(206) 476-7500 - FACSIMILE (206) 476-7575

1 15. Defendant LDS Social Services was aware of Loholt's sexual abuse of children
2 and counseled him around his pedophilia during the same time period that Loholt was
3 continuing to sexually abuse plaintiff. Defendants failed to warn or protect plaintiff of the
4 danger it knew Loholt plaintiff presented to him but instead continued to present Loholt to
5 plaintiff and others as someone who was trustworthy and suitable to work with or around
6 children.

7 16. Defendants had a special relationship with Loholt because as Scoutmaster,
8 youth minister and Mormon Priest and Elder he was their agent. COP chose Loholt to be an
9 Elder, youth minister and scoutmaster and had the ability to restrict and control his conduct.

10 17. Defendants had a special relationship with Plaintiff because he was a child that
11 it attempted to recruit into its membership and because he was within a protected class
12 recognized by the state as needing special protection. A special relationship also existed
13 because the Mormon Church brought Loholt into contact with Plaintiff.

14 18. As a matter of public priority, the protection of children from sexual abuse is a
15 high priority.

16 19. COP had a special relationship with Plaintiff because he was within a
17 foreseeable zone of harm by Loholt who was its agent.

18 20. Defendants had a special relationship with Plaintiff by virtue of the fact that
19 they were mandatory child abuse reporters that repeatedly ignored their statutory reporting
20 duties during the time period of plaintiff's abuse.

21 21. Defendants had a duty of reasonable care to protect plaintiff under the
22 circumstances of this case because the defendants' knowledge of the potential harm was
23 certain, the character of the harm was extremely grave, the importance of the social interest
24 needing protection was paramount and the burden of compliance upon defendants was
25 insignificant.
26

PRE-TRIAL ORDER - 7 of 18
(C04-2338RSM)
[Pretrial order (2).doc]

LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
620 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4185
(206) 676-7500 • FACSIMILE (206) 676-7575

1 22. Defendant COP and Loholt conspired to cover up his crimes against children
2 including plaintiff, prevent their detection, prevent the seeking out and redressing of injuries
3 to children, including plaintiff, that Loholt had abused. The conspiracy between COP and
4 Loholt prevented civil authorities from learning of Loholt's twenty-year long predations
5 against children in Washington state including K.F., D.F., J.A., D.F., J.A., R.A., B.A., R.P.,
6 T.D., and C.W., and children in Canada. Loholt was later convicted of molesting after fleeing
7 to Kenora, Ontario and joining a ward of the Mormon Church in Canada. Based on these
8 actions, COP and Loholt conspired for the unlawful purpose of concealing and suppressing
9 information on the danger and threat that Loholt presented to children.

10 23. As the result of defendants' failure to protect plaintiff from a known violent
11 sexual abuser of children and of repeatedly shielding and protecting a man defendants knew
12 was a dangerous sexual predator of children, defendants enabled Loholt to repeatedly raped
13 and violate plaintiff and cause him to sustain severe and life-long psychological and
14 emotional damages.

15 24. Defendants negligently failed to report Loholt to civil authorities, warn or
16 protect Plaintiff from Loholt knowing of his dangerous propensities and did so with
17 awareness that a high degree of probability existed that its conduct would cause emotional
18 distress and proceeded to deliberately disregard it.

19 25. Defendants' conduct was so extreme in degree and outrageous in character as
20 to go beyond all possible bounds of decency and to be regarded as atrocious and utterly
21 intolerable in a civilized community.

22 26. COP adopted guidelines for handling victims of child sexual abuse and sex
23 offenders. Plaintiff is a member of the class of people whom the guidelines were designed to
24 protect. The harm Plaintiff suffered as a result of Defendants' negligence was the harm
25 contemplated in Defendants' Handbook of Instruction to clergy.
26

PRE-TRIAL ORDER - 8 of 18
(C04-2338RSM)
[Pretrial order (2).doc]

LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
600 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4185
(206) 676-7500 - FACSIMILE (206) 676-7575

1 27. COP failed to train and supervise its hierarchal clergy in the proper
2 implementation of its guidelines, policies and procedures regarding the identification and
3 removal of child molesters from its ranks and the treatment of victims of child sexual abuse,
4 to monitor and insure compliance with their guidelines, policies and procedures, treatment of
5 child sexual abusers and reporting of child sexual abuse.
6

7 **C. DEFENDANTS' CONTENTIONS.**

8 Defendants COP and LDSSS contend as follows:
9

10
11 **IV. ISSUES OF LAW**

12 1. Did COP have a special relationship with Jack Loholt because he was its youth
13 minister, scout leader and religious Elder?

14 2. Did LDSSS have a special relationship with Jack Loholt because it counseled
15 him around his sexual deviancy and because it was a mandatory child abuse reporter, was
16 aware that Loholt had molested children and knew or should have known that Loholt was
17 continuing to have contact with children in connection with his church positions?

18 3. Did COP have a special relationship with Plaintiff?

19 4. Was COP's knowledge of the potential harm to children by Loholt so certain
20 and so grave, that regardless of the existence of a special relationship, the societal interest in
21 protecting children from known sexual abusers, requires the imposition of a duty on
22 defendants without more?

23 5. Defendant defendants, and each of them, violate RCW 26.44.030?
24
25
26

PRE-TRIAL ORDER - 9 of 18
(C04-2338RSM)
[Pretrial order (2).doc]

LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
800 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4185
(206) 676-7500 - FACSIMILE (206) 676-7575

6. Were COP and LDSSS conduct so extreme in degree and outrageous in character as to go beyond all possible bounds of decency and to be regarded as atrocious and utterly intolerable in a civilized community?

7. Is segregation of damages required under *Tegman* to a non-party?

8. Is segregation of damages to a non-party intentional tortfeasor required under *Tegman* where it was the alleged negligence of the defendant that was the cause of the intentional tortfeasor's sexual abuse of the plaintiff?

9. Once the plaintiff has met his initial burden of showing that his injuries are indivisible, do the defendants then bear the burden of establishing that the damages can be segregated?

V. EXPERT WITNESSES

(a) Each party shall be limited to two (2) expert witnesses on the issues of (1) the nature and extent of R.K.'s damages and (b) the standard of care applicable to entities serving children during the relevant time frame.

(b) The names and address of the expert witnesses to be used by each party at the trial and the issues upon which each will testify is:

(1) On behalf of Plaintiff:

Dr. Jon Conte. Dr. Conte will testify about plaintiff's emotional and psychological injuries resulting from his being repeatedly sexually abused by Jack Loholt. The substance of Dr. Conte's report is set forth in his report.

Dr. Eli Newberger. Dr. Newberger will testify to defendant's violation of the standard of care applicable to facilities serving children during the relevant time period.

(2) On behalf of Defendant:

PRE-TRIAL ORDER - 10 of 18
(C04-2338RSM)
[Pretrial order (2).doc]

LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
600 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4185
(206) 478-7500 • FACSIMILE (206) 478-7575

1 Dr. Fred Wise. Dr. Wise will testify regarding his evaluation of the Plaintiff
2 and the documents he reviewed. The substance of Dr. Wise's testimony is set forth in
3 his report.
4

5
6 **VI. OTHER WITNESSES**

7 The names and addresses of witnesses, other than experts to be used by each party at
8 the time of trial and the general nature of the testimony of each are:

9 **(1) On behalf of Plaintiff:**

- 10 a) Robert Kelly c/o Gordon Thomas Honeywell, 600 University, Suite 2100,
11 Seattle, WA 98101. Plaintiff Robert Kelly will testify about the Mormon
12 Church's religious activities at the Allenbach compound, its proselytizing
13 efforts towards him, Jack Loholt's sexual abuse of him and how he believes
14 the abuse impacted him.
- 15 b) Jack Loholt aka Jack Onofrey, RR 1, Lac La Hache, B.C. Canada (250) 396-
16 7106. Mr. Loholt will testify regarding his involvement with the Mormon
17 Church in the 1960's, his leadership positions working with boys in the Kent
18 2d Ward including Scoutmaster. He will testify regarding his sexual abuse of
19 boys in the Kent 2d Ward, the fact of his removal from scouting positions by
20 church leaders because of his sexual abuse of boys, his treatment for sexual
21 deviancy treatment at LDS Social Services in the early 1970's, his subsequent
22 continuing involvement as a scout leader in the ward scouting program, the
23 circumstances of his departure to Canada in approximately 1979, his
24 subsequent joining of the a Mormon ward and scout troop in Canada and
25 sexual abuse of more boys. He will testify regarding his conviction in Canada
26 for sexually abusing boys and subsequent ex-communication from the Church.

PRE-TRIAL ORDER - 11 of 18
(C04-2338RSM)
[Pretrial order (2).doc]

LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
600 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4165
(206) 470-7520 - FACSIMILE (206) 470-7575

1 He will testify regarding his return to the Kent area following his release from
2 prison in Canada and of the Mormon Church leaders efforts to bring him back
3 in to fellowship in the church. He will testify regarding his abuse of more
4 children in the 1980's upon returning to Kent from Canada.

5 c) Other Victims of Loholt:

- 6 (i) K.F. c/o Gordon Thomas Honeywell, 600 University, Suite 2100,
7 Seattle, WA 98101. KF will testify about his membership in the Kent
8 2d Ward of the Mormon Church and involvement in the ward scouting
9 program. He will testify about how the scouting program was
10 managed, about Jack Loholt's involvement as scoutmaster in the
11 scouting program and his sexual abuse by Loholt.
- 12 (ii) J.A. c/o Gordon Thomas Honeywell, 600 University, Suite 2100,
13 Seattle, WA 98101. JA will testify about his father Dr. Herman
14 Allenbach and Dr. Allenbach's positions in the Mormon Church and
15 Mormon Church religious and social activities conducted at the
16 Allenbach compound. . He will testify about Jack Loholt's positions in
17 the Mormon Church, his working as the ward's scoutmaster while
18 living at the Allenbach compound, his sexual abuse by Jack Loholt and
19 his complaints as a boy to his father about Loholt's sexual abuse of
20 him.
- 21 (iii) B.A., 1556 W. 1500 N, Farmington, UT, 801-451-8810 will testify
22 about his father Dr. Herman Allenbach and Dr. Allenbach's positions
23 in the Mormon Church and Mormon Church religious and social
24 activities conducted at the Allenbach compound. He will testify about
25 Jack Loholt's positions in the Mormon Church, his working as the
26

PRE-TRIAL ORDER - 12 of 18
(C04-2338RSM)
[Pretrial order (2).doc]

LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
600 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4185
(206) 676-7500 • FACSIMILE (206) 676-7575

ward's scoutmaster while living at the Allenbach compound and his sexual abuse by Jack Loholt.

- (iv) D.F. c/o Gordon Thomas Honeywell, 600 University, Suite 2100, Seattle, WA 98101. D.F. will testify about his membership in the Kent 2d ward as a boy, his participation in the ward scouting program with Loholt as Scoutmaster, his sexual abuse by Loholt, his reports of Loholt's sexual abuse of boys to Bishop Pettit and Bishop Pettit's response to those reports.
- (v) K.B., 804 E. Main St., Apt 5, Emmett, ID 83617, 208- 412-5753. K.B. will testify about his membership in the Kent 2d ward as a boy, his participation in the ward scouting program with Loholt as Scoutmaster and his sexual abuse by Loholt and his report of the abuse to the ward bishop.
- (vi) S.P. S.P. will testify about his membership in the Kent 2d ward as a boy, his participation in the ward scouting program with Loholt as Scoutmaster and his sexual abuse by Loholt. He will testify regarding his disclosure of the abuse to his father, Bishop Richard Pettit.
- (vii) T. D. c/o Gordon Thomas Honeywell, 600 University, Suite 2100, Seattle, WA 98101. T.D. will testify about his participation in the Kent 2d Ward scouting program, his sexual abuse by Jack Loholt as scoutmaster and his reporting the abuse incident to D. F.
- (viii) C.W.B. c/o Gordon Thomas Honeywell, 600 University, Suite 2100, Seattle, WA 98101. She will testify that her family were members of the Mormon Church in the Kent area in the 1980's. She will testify regarding church leaders' knowledge she was at risk and of the lack of

PRE-TRIAL ORDER - 13 of 18
(C04-2338RSM)
[Pretrial order (2).doc]

LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
600 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4185
(206) 676-7500 - FACSIMILE (206) 676-7575

any efforts by church leaders to warn or protect her or to warn her parents about Loholt sexual propensities towards children. She will testify regarding Loholt's two year-long sexual abuse of her, Loholt's subsequent arrest and conviction for his sexual molestations of her.

d) Representatives of the Kent 2nd Ward, including:

- (i) Ken Keller, 541 Ranch Loop Rd., Preston, ID 83263. Mr. Keller will testify regarding his involvement in the Kent 2d Ward scouting program and what he was by told by church leaders told about Loholt's sexual abuse of children and suitability to work with young boys.
- (ii) Bishop Randall Borland, 620 Sumac Avenue Provo, Utah, 84604. Bishop Borland will testify regarding his tenure as bishop of the Kent 2d Ward in the 1970's, the organization structure of the Mormon Church, the Handbook of Instructions, about reports he received of sexual abuse by Jack Loholt of S.P. and his response to those reports. He will testify regarding his sending Loholt to LDSSS for sexual deviancy counseling.
- (iii) Bishop Philip Coleman will testify regarding complaints of sexual misconduct by Jack Loholt he received when he was bishop of the Kent 2d Ward and his response to those reports.
- (iv) Bishop Richard Pettit will testify regarding his son's disclosure of sexual abuse by Loholt, of his subsequent reporting of the abuse to Bishop Borland. He will testify about receiving reports of sexual abuse from D.F. regarding Loholt's abuse of T.D. and what he did in response to those abuse reports.

PRE-TRIAL ORDER - 14 of 18
(C04-2338RSM)
[Pretrial order (2).doc]

LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
600 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4185
(206) 470-7500 - FACSIMILE (206) 476-7575

- (v) Bishop Larry Pitts, 24011 137th Avenue Southeast, Kent, Washington, 98042. Bishop Pitts will testify regarding warnings he received from church members regarding Loholt and what he did in response to those warnings. Pitts will testify he was never informed by church headquarters that Loholt had been excommunicated in Canada for sexually abusing boys.

e) Miscellaneous Witnesses:

- (i) Dorothy Kelly, 15016 S.E. 260th, Kent, Washington, 98042. Mrs. Kelly will testify that she is the mother R.K. She will testify that in approximately 1969, R.K. disclosed an incident involving Jack Loholt masturbating to ejaculation in front of him, his brother T.K., J.A. and R.A. in a field on the Allenbach compound. She will further testify that she notified Dr. Allenbach of the incident and will testify regarding his responses to her complaint. Dorothy Kelly will also testify regarding R.K.'s damages.
- (ii) Jerry Kelly, 15016 S.E. 260th, Kent, Washington, 98042. Mr. Kelly will testify that is R.K.'s father. He will testify that in approximately 1969, R.K. disclosed an incident involving Jack Loholt masturbating to ejaculation in front of him, his brother T.K., J.A. and R.A. in a field on the Allenbach compound. He will further testify regarding the notification Dr. Allenbach received of the incident and will testify regarding Dr. Allenbach's responses to that information. Jerry Kelly will also testify regarding R.K.'s damages.
- (iii) Ernie Humphrey, 27325 156th Avenue, Kent, WA 98042 (253) 631-6199. He will testify regarding his warnings to church leaders about

PRE-TRIAL ORDER - 15 of 18
(C04-2338RSM)
[Pretrial order (2).doc]

LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
600 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4185
(206) 670-7500 - FACSIMILE (206) 670-7575

Loholt's sexual abuse of boys in the scouting program, how Loholt was stalking their sons. He will testify that church officials covered up for Loholt and enabled him to abuse children.

- (iv) Jeanne Humphrey, 27325 156th Avenue, Kent, WA 98042 (253) 631-6199. She will testify that she is a member of the Mormon Church. She will testify about warnings she and her husband gave to church leaders regarding Loholt and of how they unsuccessfully urged church leaders to inform church members about Loholt.
- (v) Evalyn deGuzman, address to be supplemented. Ms. deGuzman will testify regarding her relationship with R.K., including her observation of R.K. and will provide testimony relating to R.K.'s damages.
- (vi) Jovine Umali, address to be supplemented. Ms. Umali will testify regarding her relationship with R.K., including her observation of R.K. and will provide testimony relating to R.K.'s damages.
- (vii) Julie Garasi, address to be supplemented. Ms. Garasi will testify regarding her relationship with R.K., including her observation of R.K. and will provide testimony relating to R.K.'s damages.
- (viii) Rachelle Cope, address to be supplemented. Ms. Cope will testify regarding her relationship with R.K., including her observation of R.K. and will provide testimony relating to R.K.'s damages.

(2) On behalf of Defendants:

VII. EXHIBITS

(a) ADMISSIBILITY STIPULATED.

PRE-TRIAL ORDER - 16 of 18
(C04-2338RSM)
[Pretrial order (2).doc]

LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
600 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4185
(206) 670-7500 - FACSIMILE (206) 676-7575

Plaintiff's Exhibits:

1. Medical and psychological records of Robert Kelly
2. Jack Onfrey, aka Jack Loholt, King County Suspect Information Report and Bail Order, No. 90-1-01505-6
3. Jack Onofrey, aka Jack Loholt, King County Criminal Court File Documents, 90-1-01505-6.
4. Renton and Kent State Directories 1969 through 1980.
5. Historical Report of the Kent 2d Ward January 3, 1971 through December 28, 1975.
6. Demonstrative Exhibit Timeline of Events re Loholt youth leadership positions and abuse complaints of victims and others to church leaders
7. Dr. Jon Conte Forensic Report and forensic tests administered to Robert Kelly and Conte C.V.
8. Childhood photographs of Robert Kelly.
9. Articles of Incorporation COP and LDSSS..
10. Excerpts from of Church Handbook of Instructions
11. Excepts from Encyclopedia of Mormonism, Priesthood and Church Organization
12. Washington State Mandatory Reporting Statute 1971
13. Depositions of Dwayne Liddell and Harold Brown in *Scott v. Mormon Church*, Oregon Circuit Court.
14. Real Estate Contract between Jack Loholt and Madeline J. Wham relating to 1973 purchase of Kent residence.

Defendant's Exhibits:

PRE-TRIAL ORDER - 17 of 18
(C04-2338RSM)
[Pretrial order (2).doc]

LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
600 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4185
(206) 670-7520 - FACSIMILE (206) 676-7575

VIII. ACTION BY THE COURT

(a) Trial of this matter is scheduled for October 2nd, 2006. The parties anticipate trial length of 7-10 days.

(b) Trial briefs shall be submitted to the Court on or before September 27, 2006.

(c) Jury instructions requested by either party shall be submitted to the Court on or before September 27, 2006. Suggested question of either party to be asked of the jury by the Court on Voir Dire shall be submitted to the Court on or before September 27, 2006.

(d) This order has been approved by the parties as evidenced by the signatures of their counsel. This order shall control the subsequent course of the action unless modified by subsequent order. This order shall not be amended except by order of the Court pursuant to agreement of the parties or to prevent manifest injustice.

SIGNATURE LINES FOR COURT AND ALL PARTIES

PRE-TRIAL ORDER - 18 of 18
(C04-2338RSM)
[Pretrial order (2).doc]

LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
600 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4185
(206) 676-7500 - FACSIMILE (206) 676-7575

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KENNETH FLEMING and JOHN DOE,)	
)	
Plaintiffs,)	
)	
vs.)	NO. 04-2338 RSM
)	
THE CORPORATION OF THE PRESIDENT OF THE)	
CHURCH OF JESUS CHRIST OF LATTER-DAY)	
SAINTS, a Utah corporation sole, a/k/a)	
"MORMON CHURCH"; LDS SOCIAL SERVICES)	
a/k/a LDS FAMILY SERVICES, a Utah)	
corporation,)	
)	
Defendant.)	

DEPOSITION UPON ORAL EXAMINATION OF
ROBERT KELLY
VIDEOTAPED PROCEEDING

1:10 o'clock p.m.

August 29, 2005

601 Union Street

Suite 3100

Seattle, Washington

REPORTED BY:
ALISON LOTT, CCR#2337

Verb8M Reporting

800 Fifth Ave., Suite 101-122 , Seattle, WA 98104 - (206) 467-0800

bd84b9e1-33a5-4271-9e07-e718630ca143

1 sexual conduct, six separate incidences of abuse. Do you
2 remember that?

3 A Yes, I do.

4 Q In each of those -- well, the first one you indicate
5 occurred in a field near the Allenbach home. In each of
6 the others, you relate that the incident occurred in
7 Mr. Loholt's apartment. Is that the apartment in the
8 basement of the Allenbach house?

9 A That's correct.

10 Q Did any of the abuse which you sustained at the hands of
11 Jack Loholt occur anyplace other than in the apartment in
12 the Allenbach home?

13 A Well, there was the incident in the field.

14 Q Other than that?

15 A All the abuse occurred in his apartment.

16 Q The incident in the field, you indicate, is the first
17 incident of abuse. And that involved whom?

18 A Jimmy was in the field, my brother Tom, and me, and Jack.

19 Q And had you met Jack Loholt prior to that incident?

20 A Yes, I did.

21 Q How long had you known him prior to that incident?

22 A I don't really recall.

23 Q Was it a matter of years, or was it a matter of months?

24 A I don't recall. It was at least months.

25 Q Had you ever had any contact with him prior to that

1 ceased. They thought Jack stopped abusing us. And so they
2 told us not to be around Jack, but -- and they thought the
3 problem didn't happen any more.

4 Q Did the incident with Jack in the field embarrass you or
5 scare you in any way?

6 A Yeah, it scared me a lot.

7 Q And according to the incidents that you relate that
8 followed after that, you apparently continued to go back to
9 the apartment where Mr. Loholt was living, though; is that
10 correct?

11 A That's correct.

12 Q Is there some reason that you continued to go back there
13 even after you were so frightened from the first incident
14 involving the -- his masturbating in front of you in the
15 field?

16 A Well, Jack was a -- seemed like an expert at manipulation
17 and intimidation, and so he -- it was like -- he had like
18 two sides to his personality. He lured us into his place,
19 his apartment, by like playing with us, and then he started
20 abusing us. And -- so the lure was really neat, because it
21 was like making root beer floats, and homemade ice cream,
22 and I especially liked the firecrackers, because he had --
23 he gave us firecrackers if we did what he wanted. And so I
24 liked the firecrackers.

25 Q Did your mother ever follow up and ask you whether or not

1 engaged in any type of cover-up concerning the abuse of
2 Mr. Loholt towards you?

3 A I don't know.

4 Q Have you talked to any victims, sexual abuse victims of Mr.
5 Loholt who indicated that they told anyone in the LDS
6 church about the abuse that was occurring to them?

7 A Can you read it, please, again.

8 (The pending question was read by
9 the reporter.)

10 A I don't know.

11 Q So it's clear, you did not come to know Mr. Loholt because
12 of any type of involvement that you had with the LDS church
13 at the time; is that correct?

14 A That's correct.

15 Q He simply was a neighbor living in the basement of
16 Dr. Allenbach's house; is that right?

17 A That's right.

18 Q And he never at any time that he was abusing you made any
19 claims concerning either his membership or affiliation or
20 anything to do with the LDS church; is that correct?

21 A I don't know.

22 Q I have no other questions. Thank you very much.

23 A Thank you, Mr. Frey.

24 THE VIDEOGRAPHER: This concludes the
25 deposition of Robert Kelly. The time now is approximately

Byers & Anderson, Inc.
Court Reporters & Video

Page 1

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KENNETH FLEMING and JOHN DOE,)
)
 Plaintiffs,)
) No.
 vs.) C04-2338RSM
)
 THE CORPORATION OF THE PRESIDENT OF THE CHURCH)
 OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah)
 corporation sole, a/k/a the "MORMON CHURCH," LDS)
 SOCIAL SERVICES a/k/a LDS FAMILY SERVICES, a Utah)
 corporation,)
)
 Defendants.)

VIDEOTAPED DEPOSITION OF DOROTHY L. KELLY
March 2, 2005
Seattle, Washington

BYERS & ANDERSON, INC. - COURT REPORTERS & VIDEO
2208 North 30th Street One Union Square
Suite 202 600 University Street
Tacoma, WA 98403-3360 Suite 2300
(253) 627-6401 Seattle, WA 98101-4128
Fax: (253) 383-4884 (206) 340-1316
(800) 649-2034
scheduling@byersanderson.com

Dorothy L. Kelly
3/2/05

Byers & Anderson, Inc.
Court Reporters & Video

Page 10

1 THE WITNESS: Jack LaHolt was present.

2 MR. FREY: Okay. Thank you.

3 Q (By Mr. Kosnoff) And when you say they were playing in the
4 field, would that have been a field on the Allenbach
5 property?

6 A On the Allenbach property.

7 Q Was the Allenbach property ever referred to as "the
8 Allenbach compound"?

9 MR. FREY: Object to the form of the
10 question. You can answer.

11 Q (By Mr. Kosnoff) Have you ever heard that term used?

12 A Yes, I have.

13 Q Did you ever use that term in referring to the Allenbach
14 property?

15 A Yes, I did.

16 Q Now, you said that the boys, the Allenbach boys and your
17 sons, were playing in a field and Jack LaHolt was there?

18 A Mm-hm. (Witness answers affirmatively.)

19 Q Did you witness this or did you learn about it later?

20 A I learned about it --

21 Q Who did you learn --

22 A -- right after it happened.

23 Q Okay. How did you learn about it, and what did you learn
24 occurred in that field?

25 A Jimmy and Bob and Tom come running down to the house --

Dorothy L. Kelly
3/2/05

1 it up on the map last night so I'd be sure and be here on
2 time.

3 Q Did you talk about what -- did he talk to you about the
4 questions he was going to ask you?

5 A No.

6 Q So all you talked about was finding the building for 15
7 minutes in there?

8 A No.

9 Q What else did you talk about?

10 A Oh, I believe we were waiting for this room to get set up,
11 and it was taking long. They were going to do it in the
12 other room, but then they decided to move to the big room.

13 Q Mrs. Kelly, I was standing out in the hall looking through
14 the window, and you were talking with Mr. Kosnoff for about
15 15 minutes. Are those the only two things you can remember
16 that you talked about?

17 A I told you they were casual remarks.

18 Q And there was no mention at all of anything to do with this
19 deposition or your testimony in this deposition or what you
20 knew or didn't know or the type of questions he was going to
21 ask you, anything of that nature?

22 A I told you before on the phone that I had not discussed this
23 case with anybody, and I'd prefer to leave it that way.

24 Q I appreciate that. But my question to you was, I'm trying
25 to get a sense of what you talked about in there for -- by

Dorothy L. Kelly
3/2/05

Byers & Anderson, Inc.
Court Reporters & Video

Page 23

1 A I don't recall.

2 Q You don't recall. You could have, but you don't remember;
3 is that what you're saying?

4 A More or less.

5 Q Okay. Now, in addition to possibly have spoken with Linda
6 Walker, did you talk with Kenny Fleming?

7 A Yes, I did.

8 Q Okay. When did you first talk to Kenny Fleming about this?

9 A Oh, I believe it was about a year ago.

10 Q Okay. And --

11 A He called my son first.

12 Q Okay. Which son did he call first?

13 A Tom.

14 Q Okay. So he called Tom first. And did Tom come and tell
15 you that Kenny had contacted him?

16 A No. I believe Kenny called me. Tom called him back and
17 said it would be all right. He -- Tom had asked me if I
18 would talk to Kenny.

19 Q All right. By the way, was Tom the one who was at your home
20 when I called and answered the phone? Was that one of your
21 sons?

22 A Could have been my grandson.

23 Q Okay. You remember when I did call, there was a --

24 A Mm-hm.

25 Q -- the second time, a gentleman answered the phone?

Dorothy L. Kelly
3/2/05

Byers & Anderson, Inc.
Court Reporters & Video

Page 33

1 Q Okay. Did you ever speak to Jack LaHolt about this
2 incident?

3 A No.

4 Q Okay. Did Jack LaHolt continue to work at Dr. Allenbach's
5 after you went over and spoke with Dr. Allenbach about this
6 incident?

7 A I saw him there occasionally.

8 Q Okay. Did you ever go back and talk to Dr. Allenbach about
9 it?

10 A No. I assumed that he had taken care of it.

11 Q Okay. When this inc- -- when you were told of this incident
12 by the children, you properly thought this was a pretty
13 outrageous and terrible thing that --

14 A Yes, I did.

15 Q -- had happened?

16 Okay. Did you ever talk to any of the authorities, go
17 to the police and report this or go to any other social
18 agency and said, "Hey, this guy is down here masturbating --

19 A No.

20 Q -- in front of kids"?

21 A Back in those days we -- things like that were different.

22 Q Okay.

23 A You went to the head of the source. I knew Dr. Allenbach
24 was very high in the church. Jack was his employee. And I
25 figured Dr. Allenbach, being a bishop or a high priest,

Dorothy L. Kelly
3/2/05

Byers & Anderson, Inc.
Court Reporters & Video

Page 34

1 would -- I took him at his word that he would take care of
2 it.

3 Q Now, you don't know --

4 A You didn't go --

5 Q Excuse me. Go ahead. I'm sorry.

6 A You didn't go to police with things like that in those days.

7 Q Okay. And you didn't expect Dr. Allenbach to go to the
8 police either, did you?

9 A I didn't know what he would do. I had no idea.

10 Q Right. But you didn't think you had to go to the police or
11 should go to the police --

12 A No.

13 Q -- correct?

14 A Never entered my mind. I didn't know what the police could
15 do.

16 Q Okay. Now, let me ask you this: Do you know at this time
17 when this incident occurred, were you aware as to whether or
18 not Jack LaHolt was living in the Allenbach house?

19 A Yes. He lived in the mother-in-law apartment.

20 Q Okay. Was that physically attached to the main home?

21 A It was underneath the -- they had a two-story and a partial
22 attic. And he lived -- well, his was situated right below
23 Herman and Veloy's bedroom.

24 Q Okay. And the -- some of the boys slept down there, didn't
25 they, with him?

Dorothy L. Kelly
3/2/05

Byers & Anderson
Court Reporters & Video

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KENNETH FLEMING and JOHN DOE,)
)
Plaintiffs,)
)
vs.) No. C04-2338RSM
)
THE CORPORATION OF THE)
PRESIDENT OF THE CHURCH OF)
JESUS CHRIST OF LATTER-DAY)
SAINTS, a Utah corporation)
sole, a/k/a the "MORMON)
CHURCH," LDS SOCIAL SERVICES,)
a/k/a LDS FAMILY SERVICES,)
a Utah corporation,)
)
Defendants.)

VIDEOTAPED DEPOSITION OF JACK A. ONEFREY

January 27, 2006

Seattle, Washington

Byers & Anderson, Inc.

Court Reporters/Video/Videoconferencing

One Union Square	2208 North 30th Street, Suite 202
600 University St.	Tacoma, WA 98403
Suite 2300	(253) 627-6401
Seattle, WA 98101	(253) 383-4884 Fax
(206) 340-1316	scheduling@byersanderson.com
(800) 649-2034	www.byersanderson.com

Serving Washington's Legal Community Since 1980

Jack A. Onefrey
January 27, 2006

Byers & Anderson
Court Reporters & Video

Page 86

1 church?

2 MR. WOLFE: We're going to assert a
3 privilege --

4 THE WITNESS: No.

5 MR. WOLFE: Excuse me. We're going
6 to assert a privilege as to communication relating to
7 the disciplinary court.

8 Q (By Mr. Kosnoff) When you met Dr. Allenbach for the
9 first time, he was teaching this investigator class.
10 Did your relationship change at that time? Did you
11 become friends? Did you go to work for him? What
12 was the -- how did the nature of your relationship
13 change, if any?

14 A Just friends.

15 Q Okay. What were the circumstances that led to you
16 moving to -- to the Allenbach compound?

17 A Compound?

18 Q You were -- was Dr. Allenbach living on a house on a
19 property on --

20 A Yeah, it's his home.

21 Q It's his home?

22 A Yeah.

23 Q Okay. This was an acreage?

24 A Yes.

25 Q Okay. And there were other buildings besides his home

Jack A. Onefrey
January 27, 2006

Byers & Anderson
Court Reporters & Video

Page 87

1 on the property?

2 A Not at that time.

3 Q Not at that time. There was just his home?

4 A Yeah.

5 Q Okay. Was it a large home?

6 A Yes.

7 Q Did it have an apartment or --

8 A Yeah.

9 Q -- attached to it? And did you move into that
10 apartment?

11 A Yes.

12 Q How did that come about that you came to live in that
13 apartment attached to the Allenbachs' home?

14 A Well, I -- I just told him my parents were taking the
15 trailer back because they wanted to move it to
16 California. So I told him I was going to be look --
17 going to be moving. And his apartment was empty at
18 the time, so I rented that from him.

19 Q Okay. And did you come to know the Allenbach children
20 at that time?

21 A I knew them before that time.

22 Q You knew them. From church?

23 A Yeah.

24 Q After you were baptized into the church, you began
25 attending the Kent 2nd Ward?

Jack A. Onefrey
January 27, 2006

Byers & Anderson
Court Reporters & Video

Page 90

1 Q On his property?

2 A Yeah. That's all I did.

3 Q Did Dr. Allenbach talk with you about the plans he had
4 for building other structures on the property?

5 A No.

6 Q Did he at some point later?

7 A Yes.

8 Q Okay. And what were his plans?

9 A I'm not sure what his plans were. Just that on a
10 piece of property, I tore down a building and I
11 reassembled it out there.

12 Q So one of the things you did -- was that one of the
13 first things you did, was to tear down a building and
14 reassemble it on his property?

15 A Yes.

16 Q Okay. Was that before or after you were living there?

17 A After.

18 Q How long did you live at the Allenbach --

19 A About three and a half years.

20 Q Now, eventually the Allenbach property had two more
21 duplex structures on it, didn't it?

22 A Yes. He --

23 Q Did you help build those?

24 A No.

25 Q Okay. Were those being built during the time that you

Jack A. Onefrey
January 27, 2006

Byers & Anderson
Court Reporters & Video

Page 91

1 lived there?

2 A No.

3 Q Came after you left?

4 A Yes.

5 Q What were the other structures that were eventually
6 built on the property?

7 A Who?

8 Q The other structures?

9 A What about them?

10 Q What were they?

11 A There were like little apartments for his mother and
12 his aunt.

13 Q Did Mormon missionaries sometimes live in those
14 structures?

15 A After -- no. No, they didn't.

16 Q They didn't?

17 A No.

18 Q There were no Mormon missionaries that stayed in those
19 apartments?

20 A They stayed where I stayed.

21 Q Where did -- which was where?

22 A The main house underneath the big bedroom.

23 Q And these would be missionaries that would come into
24 the area to serve their mission, and that's where they
25 would stay?

Jack A. Onefrey
January 27, 2006

1 Q Did you ever participate in any --

2 A No.

3 Q -- baseball or softball games there?

4 A No.

5 Q Do you know whether any church league games took on --
6 or took place there?

7 A I don't know. He was involved with community baseball
8 too, so...

9 Q So you have no knowledge whether or not there were any
10 church --

11 A No.

12 Q -- league baseball games played there?

13 A No.

14 Q What kinds of church activities took place at the
15 Allenbach --

16 A I didn't hear you.

17 Q What kind of church-related activities took place at
18 the Allenbach property?

19 A I don't know of any.

20 Q Were there prayer meetings?

21 A No.

22 Q Were there ever meetings of any elders?

23 A There wasn't any church meetings that I know of.

24 Q Okay. But there may have been meetings that you were
25 not aware of?

Jack A. Onefrey
January 27, 2006

Byers & Anderson
Court Reporters & Video

Page 96

1 Q Did you molest Rick Allenbach?

2 A Yes.

3 Q Jim Allenbach?

4 A Yes. They would be the first.

5 Q They were the first ones?

6 A Yeah.

7 Q Do you know whether -- which one of those brothers you
8 molested first?

9 A No.

10 Q Did the molestation take place in your apartment? I'm
11 referring to the apartment at the Allenbach property.

12 A Yeah. I'm -- I'm not sure.

13 Q Did you -- did you molest Bob Kelly?

14 A No.

15 Q You never molested Bob Kelly?

16 A No.

17 Q Did you molest Tom Kelly?

18 A No.

19 Q Did you ever masturbate in front of boys in a field at
20 the Allenbach home in approximately 1970 or '71?

21 A No.

22 Q Did Dr. Allenbach ever speak to you about allegations
23 that you had molested a child?

24 A I don't remember.

25 Q You don't remember --

Jack A. Onefrey
January 27, 2006

Byers & Anderson
Court Reporters & Video

Page 138

1 Q Did you ever tell Chelsey Wieder that you had had sex
2 with more than 250 children in your life?

3 A No.

4 Q Never made that statement?

5 A No.

6 Q Never said anything like that to her?

7 A No.

8 Q Did you ever go to LDS Social Services for sexual
9 deviancy counseling or treatment?

10 A Yes.

11 Q Okay. About what time period?

12 A Probably -- I'm really not sure on that.

13 Q But it was while you were in the Kent 2nd Ward in the
14 1970s?

15 A Yes.

16 Q Okay. And you were referred there by a bishop?

17 MR. WOLFE: We're going to object,
18 assert privilege.

19 Q (By Mr. Kosnoff) You were referred to or sent to LDS
20 Social Services by Bishop Borland, isn't that correct?

21 MR. WOLFE: Assert privilege.

22 Q (By Mr. Kosnoff) When you went to LDS Social Services,
23 you told them about your -- you were truthful about
24 your sexual contact with children, weren't you?

25 A Yes.

Jack A. Onefrey
January 27, 2006

Byers & Anderson
Court Reporters & Video

Page 146

1 we're trying to establish.

2 MR. NASH: Well, then we'll wait and
3 reserve the issue.

4 Q (By Mr. Kosnoff) What was the -- what was the time
5 period that you went to -- the one year that you were
6 going to LDS Social Services?

7 A I can't remember when that was.

8 (Mr. Frey enters.)
9

10 Q (By Mr. Kosnoff) Was it -- how soon after you were
11 removed as scoutmaster -- assistant scoutmaster in
12 February of 1973?

13 A I really can't remember the -- the date.

14 Q But was it soon after that?

15 A I have two recollections, and I really don't know.

16 Q Okay. Let's talk about the first recollection you
17 have. What is the first recollection you have?

18 A That I might have gone right after Bishop Borland.

19 Q And the second recollection?

20 A It might have been after that sometime somewhere.

21 Q Do you think there may have been more than two times
22 you went to LDS Social Services, that is, two separate
23 periods of counseling?

24 A I only went one period, but I don't know where in
25 the...

Jack A. Onefrey
January 27, 2006